

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 18TH JULY 2007 / 27TH ASHADHA 1929

WP(C).No. 21085 of 2007(I)

PETITIONER:

EUREKA FORBES LTD., 31/1787, TITUS
TOWERS, PALARIVATTOM, COCHIN - 25,
REPRESENTED BY ITS AREA SALES MANAGER,
SAJITH M.K.

BY ADV. SRI.R.MURALIDHARAN (ARoor)

RESPONDENTS:

1. THE ASSISTANT COMMISSIONER
(ASSESSMENT), SPECIAL CIRCLE - II,
COMMERCIAL TAXES, ERNAKULAM.
2. THE DEPUTY COMMISSIONER (APPEALS),
COMMERCIAL TAXES, ERNAKULAM.
3. INSPECTING ASSISTANT COMMISSIONER,
COMMERCIAL TAXES, ERNAKULAM.

BY ADV.SHRI.C.K.GOVINDAN, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 18/07/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

P1 : COPY OF THE ASSESSMENT ORDER PASSED BY THE 1ST RESPONDENT FOR THE YEAR 1999-2000 DATED 30/12/2006.

P2 : COPY OF THE CERTIFICATE OBTAINED FROM THE TRADE MARK REGISTRY MUMBAI.

P3 : COPY of the REPORT RECEIVED FROM THE TRADE MARK REGISTRY DATED 25/10/2002 BY THE MANUFACTURERS OF WATER PURIFIER DATED 25/10/2002 IN RESPECT OF AQUAGUARD CLASSIC.

P4 : COPY of the REPORT RECEIVED FROM THE TRADE MARK REGISTRY DATED 25/10/2002 BY THE MANUFACTURERS OF WATER PURIFIER DATED 25/10/2002 IN RESPECT OF AQUAGUARD NOVA.

P5 : COPY of the REPORT RECEIVED FROM THE TRADE MARK REGISTRY DATED 25/10/2002 BY THE MANUFACTURERS OF WATER PURIFIER DATED 25/10/2002 IN RESPECT OF AQUAGUARD iNOVA.

P6 : COPY of the REPORT RECEIVED FROM THE TRADE MARK REGISTRY DATED 25/10/2002 BY THE MANUFACTURERS OF WATER PURIFIER DATED 25/10/2002 IN RESPECT OF EUROCLEAR BULLET.

P7 : COPY of the REPORT RECEIVED FROM THE TRADE MARK REGISTRY DATED 25/10/2002 BY THE MANUFACTURERS OF WATER PURIFIER DATED 25/10/2002 IN RESPECT OF ERROCLEAR XL.

P8 : COPY OF THE AGREEMENT ENTERED INTO WITH FACIT ASIA LTD., BY THE PETITIONERS DATED 12/04/1982.

P9 : COPY OF CERTIFICATE OF INCORPORATION CONSEQUENT ON CHANGE OF NAME.

P10 : COPY OF THE FINAL ASSESSEMENT ORDER PASSED BY THE DEPUTY COMMISSIONER OF COMMERCIAL TAXES (ASSESSMENT - 43), BANGALORE UNDER KARNATAKA SALES TAX ACT, FOR THE YEAR 2001-02.

P11 : COPY OF THE ASSESSMENT ORDER PASSED BY THE 1ST RESPONDENT FOR THE YEAR 2000-01 DATED 30/12/2006.

P12 : COPY OF THE ASSESSMENT ORDER PASSED BY THE 1ST RESPONDENT FOR THE YEAR 2001-02 DATED 24/01/2007.

P13 : COPY OF THE ASSESSMENT ORDER PASSED BY THE 1ST RESPONDENT FOR THE YEAR 2002-03 DATED 19/03/2007.

P14 : COPY OF THE APPEAL FILED BEFORE THE 2ND RESPONDENT AGAINST EXT.P1 DATED 02/04/2007.

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P15 : COPY OF THE APPEAL FILED BEFORE THE 2ND RESPONDENT AGAINST
EXT.P11 DATED 26/04/2007.

P16 : COPY OF THE APPEAL FILED BEFORE THE 2ND RESPONDENT AGAINST
EXT.P12 DATED 26/04/2007.

P17 : COPY OF THE APPEAL FILED BEFORE THE 2ND RESPONDENT AGAINST
EXT.P13 DATED 30/05/2007.

P18 : COPY OF THE INTERLOCUTORY APPLICATION FOR STAY FILED BEFORE THE
2ND RESPONDENT ALONG WITH EXT.P14 DATED 02/04/2007.

P19 : COPY OF THE INTERLOCUTORY APPLICATION FOR STAY FILED BEFORE THE
2ND RESPONDENT ALONG WITH EXT.P15 DATED 26/04/2007.

P20 : COPY OF THE INTERLOCUTORY APPLICATION FOR STAY FILED BEFORE THE
2ND RESPONDENT ALONG WITH EXT.P16 DATED 26/04/2007.

P21 : COPY OF THE INTERLOCUTORY APPLICATION FOR STAY FILED BEFORE THE
2ND RESPONDENT ALONG WITH EXT.P17 DATED 30/05/2007.

P22 : COPY OF THE REVENUE RECOVERY NOTICE ISSUED BY THE 3RD
RESPONDENT FOR THE YEAR 1999-2000 DATED 04/07/2007.

P23 : COPY OF THE REVENUE RECOVERY NOTICE ISSUED BY THE 3RD
RESPONDENT FOR THE YEAR 2000-01 DATED 04/07/2007.

P24 : COPY OF THE REVENUE RECOVERY NOTICE ISSUED BY THE 3RD
RESPONDENT FOR THE YEAR 2001-02 DATED 04/07/2007.

P25 : COPY OF THE REVENUE RECOVERY NOTICE ISSUED BY THE 3RD
RESPONDENT FOR THE YEAR 2002-03 DATED 04/07/2007.

// TRUE COPY //

PA TO JUDGE.

jg

C.N.RAMACHANDRAN NAIR, J.

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Dated, this the 18th day of July, 2007

J U D G M E N T

Since petitioner has filed appeals against sales tax assessment for the year 1999-2000, 2000-01, 2001-02 and 2002-03 and having regard to the nature of the dispute, this writ petition is disposed of directing petitioner to remit 15% of the demand in two equal monthly installments, first of which will be paid on or before 20/08/2007, and next on or before 20/09/2007. Recovery will remain stayed for two months from now and if 15% of the demand is paid as above, stay of recovery proceedings will continue till disposal of the appeals. Appellate authority is directed to take up the appeals and dispose of the same within three months from the date of making payment of 15% of the demand as above. If payment is not made, entire demand can be recovered during pendency of the appeals and in that case appeals will be disposed of in the usual course.

This writ petition is disposed of as above.

(C.N.RAMACHANDRAN NAIR, JUDGE)